EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-1440-PWS-E **TCEQ ID:** RN101178978 **CASE NO.:** 34565

RESPONDENT NAME: City of Southside Place

ORDER TYPE:		
1660 AGREED ORDER	X FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING
FINDINGS DEFAULT ORDER	SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
AMENDED ORDER	_EMERGENCY ORDER	
CASE TYPE:		
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE
X PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION
TYPE OF OPERATION: Public water sup SMALL BUSINESS: YesX OTHER SIGNIFICANT MATTERS: The		
facility location.		
	an the ED and the Respondent has expressed an inte	
COMMENTS RECEIVED: The Texas Reg	vister comment period expired on March 17, 2008. I	No comments were received.
TCEQ Enforcement Coordinator 239-1482; Mr. Bryan Sinclair, Enf Respondent: Mr. David N. Moss,	or: Ms. Melissa Keller, SEP Coordinator, Enforcement Div. Ms. Andrea Linson-Mgbeoduru, Enforcement Div. Corcement Division, MC 219, (512) 239-2171 City Manager, City of Southside Place, 6309 Edloe esented by counsel on this enforcement matter	vision, Enforcement Team 2, MC 169, (512)
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RESPONDENT NAME: City of Southside Place **DOCKET NO.:** 2007-1440-PWS-E

VIOLATION SUMMARY CHART: CORRECTIVE ACTIONS **VIOLATION INFORMATION** PENALTY CONSIDERATIONS TAKEN/REQUIRED Type of Investigation: Total Assessed: \$2,571 **Ordering Provisions:** __ Complaint 1) The Order will require the Respondent ___ Routine Total Deferred: \$0 Enforcement Follow-up to implement and complete a __Expedited Settlement X Records Review Supplemental Environmental Project (SEP). (See SEP Attachment A) Financial Inability to Pay Date(s) of Complaints Relating to this 2) The Order will also require the Case: None SEP Conditional Offset: \$2,571 Respondent to: Date of Investigation Relating to this Total Paid (Due) to General Revenue: \$0 a. Within 30 days after the effective date of Case: July 12, 2007 this Agreed Order, develop and begin Site Compliance History Classification Date of NOV/NOE Relating to this Case: maintaining a written protocol that is to be X High __ Average __ Poor followed to ensure proper public July 5, 2007 (NOE) notification, Commission notification and Person Compliance History Classification boil water notices are provided to the Background Facts: This was a routine High X Average Poor customers of the water supply in the event record review. of an AMCL violation, or other conditions Major Source: Yes X No which indicate potability of the water may WATER have been compromised; and Applicable Penalty Policy: September 2002 1) Exceeded the acute maximum contaminant level ("AMCL") for fecal b. Within 45 days after the effective date Findings Orders Justification: Human health of this Agreed Order, submit written coliform on July 3, 2007 [30 Tex. ADMIN. has been exposed to pollutants which exceed certification and include detailed CODE § 290.109(f)(1)(B) and TEX. HEALTH levels that are protective. supporting documentation including & SAFETY CODE § 341.0315(c)]. photographs, receipts, and/or other records 2) Failed to notify the Commission within to demonstrate compliance with Ordering Provision No. 2.a. 24 hours of incurring an AMCL for fecal coliform and failed to provide public notice for exceeding the AMCL for fecal coliform [30 Tex. ADMIN. CODE §§ 290.109(g)(2) and 290.122(a)(2)(B)]. 3) Failed to issue a boil water notice within 24 hours of incurring an AMCL [30 Tex. ADMIN. CODE § 290.122(a)(2)(B)].

Additional ID No(s).: PWS ID No. 1010023

Attachment A Docket Number: 2007-1440-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Southside Place

Payable Penalty Amount: Two Thousand Five Hundred Seventy-One Dollars (\$2,571)

SEP Amount: Two Thousand Five Hundred Seventy-One Dollars (\$2,571)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development

Areas, Inc. ("RC&D")- Wastewater Treatment Assistance

Location of SEP: Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. <u>Minimum Expenditure</u>

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

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2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc. 1716 Briarcrest Drive, Suite 510 Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division Attention: SEP Coordinator, MC 219 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality Financial Administration Division, Revenues Attention: Cashier, MC 214 P.O. Box 13088 Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEO. Such statements include advertising, public relations, and press releases.

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City of Southside Place Agreed Order - Attachment A

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

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	Penalty Calcul	ation Works	sheet (P	•	
Policy Revision 2 (Septe	mber 2002)			PCW Revision Ju	ne 26, 2007
DATES Assigned	6-Aug-2007		VERNIE T		
PCW	4-Sep-2007 Screening 5-Sep-	2007 EPA Due	***		
RESPONDENT/FACILITY I	NFORMATION			ing a second control of the second control o	a abakhirinti.
Respondent	City of Southside Place				
Reg. Ent. Ref. No. Facility/Site Region		Major/	Minor Source	Minor	
raciity/ofte Region_	12-1 louston	Major/	Willion Source	[PVIIIIOI 4]	
CASE INFORMATION		<u>adodik</u> osiki saasa 1			Controllation (Controllation)
Enf./Case ID No.	34565 2007-1440-PWS-E	No.	of Violations		
Доскет No.12 Media Program(s)		Ent	Order Type Coordinator	Andrea Linson-Mgbeodur	
Multi-Media	usilo Tratel Supply			EnforcementTeam 2	
Admin. Penalty \$ L	imit Minimum \$50 Maximu	ım \$1,000			
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		Iculation Sec	suon	A March Lagran of the American State of the Company	
TOTAL BASE PENAL	TY (Sum of violation base pe	nalties)		Subtotal 1	\$1,350
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	and two dissil	milai NOVS.			
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Good Faith Effort		0% Reduction		Subtotal 5	\$0
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Extraordinary Ordinary					
N/A	X (mark with x)				
Notes	The Respondent does not n	meet the good faith c	riteria.		
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Approx. 0	Cost of Compliance \$1,100				
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, 10.00	compli	iance.			
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	in the first of the state of th				\$2,571
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Reduces the Final Assessed Pen	alty by the indicted percentage. (Enter numbe				
Notes	No deferral is recommen	ided for Findings Ord	iers.		
	<u> </u>				
PAYABI E PENALTY				Triang Paris at 1987	\$2,571

PAYABLE PENALTY

Screening Date 5-Sep-2007

Docket No. 2007-1440-PWS-E

PCW

Policy Revision 2 (September 2002)
PCW Revision June 26, 2007

Respondent City of Southside Place

Case ID No. 34565

Reg. Ent. Reference No. RN101178978

		Compliance History Worksheet	4 30		
Com	oliance History Component	Site Enhancement (Subtotal 2) Number of	≘nter Number Here		
	NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	-	5%	
		Other written NOVs	2	4%	
	Z Constant	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	jalikali dala .	0%	
	Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission		0%	
	Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)		0%	
	and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%	
	Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0% 0%	
	Emissions	Chronic excessive emissions events (number of events)		0%	
	Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	17	0%	
	Audito	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	Ó	0%	
		Plea	se Enter Yes or No		
		Environmental management systems in place for one year or more	1/ No	0%	
	Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%	
	Curion	Participation in a voluntary pollution reduction program	No	0%	
	the and probably to a parameter	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%	
		Adjustment F	Percentage (Su	ubtotal 2)	9%
Repe	at Violator (Su	btotal 3)	ment microrise.77	HARRIO.	
	No	Adjustment F	Percentage (Su	ubtotal 3)	0%
Com	L	Person Classification (Subtotal 7)			
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Com	pliance History	· Summary		A MATERIAL	
	Compliance History Notes	The penalty enhancement is due to one Notice of Violations ("NOV") for same or similar viol in the current enforcement action and two dissimilar NOVs.	ations as those	* ·	
		Total Adjustment Percentage	<u> </u>	I	

Screening Date	5-Sep-2007	Docket No. 2007-1440-PWS-E	PCW
Respondent	City of Southside Place		Policy Revision 2 (September 2002)
Case ID No.			PCW Revision June 26, 2007
Reg. Ent. Reference No.	RN101178978		AAAAAAALI III A
· · · · · · · · · · · · · · · · · · ·	Public Water Supply		e e e e e e e e e e e e e e e e e e e
	Andrea Linson-Mgbeoduru		(R) Decision of
Violation Number	p		**************************************
Rule Cite(s)	30 Tox Admin Code	§ 290.109(f)(1)(B) and Tex. Health and Safety Coc	3.0
Rule Cite(s)	30 Tex. Admin. Code	341.0315(c)	2 3
Violation Description		num contaminant level ("AMCL") for fecal coliform of mple collected at 3736 and 3760 Bellaire Boulevard positive for fecal coliform.	
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Release OR Actual Potential	X	Minor Percent 50%	
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Falsification	Major Moderate	Minor	VMAAVENATI
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Matrix Notes Customers of		ave been exposed to contaminants which exceed le rotective of human health. Adjustment	\$500
			\$500
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Violation Events	PRESENTE LA PROPERTIE DE LA PERSONA DE LA PE		
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mark only one with an x	daily monthly quarterly semiannual annual single event X	Violation Bas	e Penalty \$1,000
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Scre	ening Date 5-Sep-2007		Docket N	lo. 2007-1440-PWS-E		PCW
	Respondent City of Sout	side Place			Policy Revision 2	(September 2002)
	Case ID No. 34565				PCW Revi	sion June 26, 2007
Reg. Ent. Ref	ference No. RN1011789	78				
Med	ia [Statute] Public Wate	r Supply				
	Coordinator Andrea Lins	on-Mgbeoduru				
Viol	ation Number 2					
	Rule Cite(s)	30 Tex. Admin. Code	§§ 290.109(g)(2	2) and 290.122(a)(2)(B)		
Violatio	n Description Failed to no and fa	otify the Commission will iled to provide public no	thin 24 hours of otice for exceedi	incurring an AMCL for fecange the AMCL for fecal colifications.	al coliform orm.	
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		One single eve	iit is recomment			
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Engineering/construction				0.0	\$0	\$0	\$0
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Screenin	g Date 5-Sep-2007		Docket No.	2007-1440-PWS-E	**************************************	PCW
	ondent City of Southside Pla	ce			Policy Revisi	on 2 (September 2002)
Case	ID No. 34565				PGW I	Revision June 26, 2007
	ce No. RN101178978					
	tatute] Public Water Supply					
	linator Andrea Linson-Mgbe	oduru				
Violation	Number 3 3					
Kuit	: Cite(s)	30 Tex. Admin	. Code § 290.12	22(a)(2)(B)		IIII
Violation Des	cription Failed to issue a	boil water notice (("BWN") within 2	24 hours of incurring an	AMCL.	
				Ва	se Penalty	\$1,000
		o Motrice			3	
>> Environmental, Fro	perty and Human Healt Ha			P. D. S. Salling		***************************************
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OR	Actual			Percent 25%	•	
	Potential X			Percent 25%		-
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Matrix Notes	Failure to issue a BWN could significant amounts of conta	result in customer minants wich wou	rs of the public	water supply being exposing protective of human he	osed to ealth,	
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Compliance History

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	r/Respondent/Owner-Operator:	CN600626758	City of Southside Place	N 4.0E	Classification: Avera	
Regulate	d ⊨ntity:	RN101178978	CITY OF SOUTHSIDE F	'LACE	Classification:	Site Rating:
ID Numb	er(s):	PUBLIC WATER WATER LICENS	SYSTEM/SUPPLY ING	REGIST LICENS	RATION . E	1010023 1010023
_ocation:		6309 EDLOE ST,	HARRIS COUNTY			
TCEQ Re	egion:	REGION 12 - HO	USTON			
Date Cor	mpliance History Prepared:	September 04, 20	007			
Agency [Decision Requiring Compliance History	: Enforcement				
Compliar	nce Period:	September 04, 20	002 to September 04, 2007			
TCEQ St	aff Member to Contact for Additional Ir	formation Regarding t	his Compliance History			
Name:	Thomas Barnett	Ph	one: 713-767-3680		·	
		Site C	ompliance History Cor	nponents		
1. Has th	e site been in existence and/or operati			Yes		
	ere been a (known) change in owners	•	•	No		
	who is the current owner?		•	N/A		
4. if Yes	, who was/were the prior owner(s)?	•		N/A		
5. When	did the change(s) in ownership occur	?		N/A	•	, , , , , , , , , , , , , , , , , , ,
	nents (Multimedia) for the Site :			,		· · · · · · · · · · · · · · · · · · ·
A.	Final Enforcement Orders, court judg		decrees of the state of Texa	as and the fed	eral government.	
	N/A	,,				
	IN/A					
B.	Any criminal convictions of the state	of Texas and the fede	ral government.			
	N/A					
C.	Chronic excessive emissions events	i.				
	N/A				•	
D.	The approval dates of investigations	. (CCEDS Inv. Track.	No.)			
	N/A 1 03/25/2004 (260478) 2 07/05/2007 (569300) 3 07/25/2007 (567054) 4 07/31/2007 (570293)	,				
E.	Written notices of violations (NOV).	(CCEDS Inv. Track. N	0.)			
	Date: 03/16/2004 (260	478)				
	30 TAC 0 30 TAC 0 Description: Failure to	Chapter 290, SubChap Chapter 290, SubChap Chapter 290, SubChap Treplace missing barbe (300)	ter D 290.38(25) ter D 290.41(c)(3)(E)	ssification:	Minor	
	Self Report? NO	,	Cla	ssification:	Major	
	Description: 07/2007	Chapter 290, SubChap Failure to notify the T ant level (AMCL).	ter F 290.109(g)(2) CEQ within 24 hrs of incurri	ing the acute r	maximum	
	Self Report? NO	,	Cla	ssification:	Major	
		Chapter 290, SubChap - Failure to rescind BW	/N in the same manner as i	_	VN. Major	
		Chapter 290, SubChap - Failure to send proof	ter F 290.122(a)(5) of BWN to the TCEQ within	n 10 days of po	osting notice.	
	Self Report? NO		Cla	ssification:	Major	
			oter F 290.122(a)(2)(B) N within 24 hrs after incurrir	ng an acute m	aximum	

contaminant level violation.

Self Report?

NO

Classification:

Citation:

30 TAC Chapter 290, SubChapter F 290.122(a)(2)(B)

Description:

07/2007 - Failure to post an acute maximum contaminant level (AMCL) PN within 24 hrs

after notifying the TCEQ in 07/2007.

Self Report?

NO

30 TAC Chapter 290, SubChapter F 290.122(a)(5)

Citation: Description:

07/2007 - Failure to send proof of PN to the TCEQ within 10 days of posting notice.

Self Report?

Classification:

Classification:

Citation:

30 TAC Chapter 290, SubChapter F 290.109(f)(1)(B)

Description:

07/2007 - Exceeded an acute maximum contaminant level (AMCL) violation in 07/2007.

Date: 07/20/2007

(567054)

Self Report?

NO

30 TAC Chapter 290, SubChapter D 290.38(25)

Classification:

Minor

Moderate

Major

Major

Citation:

30 TAC Chapter 290, SubChapter D 290.41(c)(3)(E)

30 TAC Chapter 290, SubChapter D 290.46(m)

Failure to replace missing barbed wire along the top of the fence.

Description: Self Report?

Classification:

Citation:

30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)

Description:

Failure to meet this Agency's "Minimum Water System Capacity Requirements."

F. Environmental audits.

Type of environmental management systems (EMSs). G.

N/A

Voluntary on-site compliance assessment dates. Н.

Participation in a voluntary pollution reduction program.

N/A

Early compliance.

N/A

Sites Outside of Texas

N/A

Texas Commission on Environmental Quality



IN THE MATTER OF AN	· §	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
CITY OF SOUTHSIDE PLACE	§	
RN101178978	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1440-PWS-E

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Southside Place ("the City") under the authority of Tex. Health & Safety Code ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The City owns and operates a public water supply at 6309 Edloe Street in Harris County, Texas (the "Facility") that has approximately 665 service connections and serves at least 25 people per day for at least 60 days per year.

- 2. During a record review on July 12, 2007, TCEQ staff documented that the City:
 - a. Exceeded the acute maximum contaminant level ("AMCL") for fecal coliform on July 3, 2007. Specifically, samples collected at 3736 and 3760 Bellaire Boulevard tested positive for fecal coliform;
 - b. Did not notify the Commission within 24 hours of incurring an AMCL for fecal coliform and failed to provide public notice ("PN") for exceeding the AMCL for fecal coliform; and
 - c. Did not issue a boil water notice ("BWN") within 24 hours of incurring an AMCL.
- 3. The City was notified of the AMCL violation by letter dated July 5, 2007.

II. CONCLUSIONS OF LAW

- 1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
- 2. As evidenced by Findings of Fact No. 2.a., the City exceeded the AMCL for fecal coliform on July 3, 2007, in violation of 30 Tex. ADMIN. CODE § 290.109(f)(1)(B) and Tex. Health & Safety Code § 341.0315(c).
- 3. As evidenced by Findings of Fact No. 2.b., the City failed to notify the Commission within 24 hours of incurring an AMCL for fecal coliform and failed to provide PN for exceeding the AMCL for fecal coliform, in violation of 30 Tex. ADMIN. CODE §§ 290.109(g)(2) and 290.122(a)(2)(B).
- 4. As evidenced by Findings of Fact No. 2.c., the City failed to issue a BWN within 24 hours of incurring an AMCL, in violation of 30 Tex. ADMIN. CODE § 290.122(a)(2)(B).
- 5. Pursuant to Tex. Health & Safety Code § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
- 6. An administrative penalty in the amount of of Two Thousand Five Hundred Seventy-One Dollars (\$2,571) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in Tex. Health & Safety Code § 341.049(b). Two Thousand Five Hundred Seventy-One Dollars (\$2,571) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

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III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of of Two Thousand Five Hundred Seventy-One Dollars (\$2,571) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Southside Place, Docket No. 2007-1440-PWS-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 6 above, Two Thousand Five Hundred Seventy-One Dollars (\$2,571) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
- 3. The City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, develop and begin maintaining a written protocol that is to be followed to ensure proper public notification, Commission notification and boil water notices are provided to the customers of the water supply in the event of an AMCL violation, or other conditions which indicate potability of the water may have been compromised, as required by 30 Tex. ADMIN. CODE §§ 290.109 and 290.122; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:
 - "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are

significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Water Supply Section, Manager Water Supply Division, MC 155 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

- 4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
- 7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 8. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by

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facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 Tex. ADMIN. CODE § 70.10(b) and Tex. Gov't Code § 2001.142.

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City of Southside Place DOCKET NO. 2007-1440-PWS-E Page 6

For the Commission

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1 of the Commission			•	
John Sallier		3/5	12008	
For the Executive Director	Date	,		

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Southside Place. I am authorized to agree to the attached Agreed Order on behalf of City of Southside Place, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, City of Southside Place waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature Signature No. Moss

Name (Printed or typed)
Authorized Representative of
City of Southside Place

January 7, 2008

Title Tana Je

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

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Attachment A Docket Number: 2007-1440-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Southside Place

Payable Penalty Amount: Two Thousand Five Hundred Seventy-One Dollars (\$2,571)

SEP Amount: Two Thousand Five Hundred Seventy-One Dollars (\$2,571)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development

Areas, Inc. ("RC&D")- Wastewater Treatment Assistance

Location of SEP: Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

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2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc. 1716 Briarcrest Drive, Suite 510 Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division Attention: SEP Coordinator, MC 219 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality Financial Administration Division, Revenues Attention: Cashier, MC 214 P.O. Box 13088 Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

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City of Southside Place Agreed Order - Attachment A

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

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